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CHARLES ELMORE CRO
CLER

IN THE

Supreme Court of the United States,

OCTOBER TERM, 1934.

No. 208.

HERBERT H. WAXHAM, DOING BUSINESS AS WAXHAM HATCHERIES,

Petitioner,

vs.

SAMUEL B. SMITH AND THE BUCKEYE INCUBATOR COMPANY,

Respondents.

REJOINDER OF PETITIONER TO RESPONDENTS' PETITION FOR IMMEDIATE MANDATE.

DRURY W. COOPER,
ALLAN C. BAKEWELL,
Counsel for Petitioner.

The Evening Post Job Printing Office, Inc., 154 Fulton St., New York, N. Y.

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Herbert H. Waxham, doing business as Waxham Hatcheries,
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Now comes petitioner, Herbert H. Waxham, doing business as Waxham Hatcheries, by its counsel, and files this rejoinder in opposition to petition for immediate mandate filed by respondents in this case.

On January 29, 1935 the Honorable Justice Harlan F. Stone entered an order herein extending petitioner's time for filing petition for rehearing to and including February 15, 1935 and further ordering that the issuance of the mandate in this case be stayed until the disposition of the petition for rehearing.

The opinion of this Court was handed down on Ja
ary 7, 1935 and as soon as copies of the opinion could
secured they were forwarded to counsel for petitioner
Los Angeles (Raymond Ives Blakeslee) and New Y
(the undersigned). Mr. Blakeslee was the counsel w
acted for petitioner in the U. S. District Court and in
Court of Appeals and yet remains active in the ca
Because of the great distance separating counsel
petitioner and the consequent delay in the receipt
copies of the opinion and the exchange of letters, it w
impossible to prepare and file petition for rehearing wit
the twenty-five days allowed under the Rule and the
fore it became necessary to secure an extension of ti
for filing such petition. The petition for rehearing is n
being prepared and counsel believes that it can be ser
and filed by the 11th day of February, 1935.

Because petitioner intends to file promptly a petit
for rehearing, it is respectfully submitted that respo
ents' motion for immediate mandate should be den
and that the mandate of this Court should be sta
pending the determination of the petition in accorda
with the order of the Honorable Harlan F. Stone da
January 29, 1935.

Respectfully submitted,

DRURY W. COOPER,
ALLAN C. BAKEWELL,
Of Counsel for Petitione

Feb. 2, 1935.